

1
2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
8

9 Kalilu S. Touray,) No. CV 08-405-PHX-JAT-(JCG)
10 Petitioner,) **REPORT & RECOMMENDATION**
11 vs.)
12 Michael B. Mukasey, et al.,)
13 Respondents.)
14 _____)
15)

16 On February 28, 2008, Petitioner Kalilu S. Touray filed a *pro se* Petition for Writ of
17 Habeas Corpus pursuant to 28 U.S.C. § 2241 alleging that immigration officials were holding
18 him in detention pending his removal to Gambia, West Africa, but that his removal could not
19 be effected. Petitioner sought his immediate release from custody on the grounds that his
20 indefinite detention with no prospect that his removal would be effected in the reasonably
21 foreseeable future was not authorized by law. *See Zadvydas v. Davis*, 533 U.S. 678 (2001)
22 (when there is no reasonable likelihood that a foreign government will accept the alien's
23 return in the reasonably foreseeable future, the immigration laws do not permit the INS to
24 detain the alien indefinitely; rather, the INS has the authority to detain aliens only for a
25 reasonable time beyond the normal 90-day statutory removal period).

26 On May 28, 2008, Respondents filed a Suggestion of Mootness (Doc. No. 11)
27 indicating that Petitioner was released from detention May 22, 2008. Respondents argue the
28 case is now moot.

1 On June 11, 2008, this Court gave Petitioner until July 11, 2008, to show good cause
2 why this case should not be dismissed as moot. The court specifically warned Petitioner that
3 the case may be dismissed without further notice if he failed to respond. He did not respond.
4 A review of the docket indicates that the order was returned as undeliverable. (Doc. No. 14.)

RECOMMENDATION

6 Based on the foregoing, the Magistrate Judge recommends that the District Court,
7 after its independent review of the record, enter an order DISMISSING the Petition for Writ
8 of Habeas Corpus as MOOT.

9 Pursuant to 28 U.S.C. §636 (b), any party may serve and file written objections within
10 days of being served with a copy of this report and recommendation. If objections are not
11 timely filed, they may be deemed waived. If objections are filed, the parties should use the
12 following case number: **CV 08-405-PHX-JAT**.

13 DATED this 15th day of July, 2008.


Jennifer C. Guerin
United States Magistrate Judge